

EXHIBIT A

FILED
SAN MATEO COUNTY

NOV 19 2015

Clerk of the Superior Court

By  DEPUTY CLERK

ABRAHAM, FRUCHTER
& TWERSKY, LLP
IAN D. BERG (Bar No. 263586) - ATT/IDB
TAKEO A. KELLAR (Bar No. 234470)
11622 El Camino Real, Suite 100
San Diego, CA 92130
Tel. (858) 764-2580
Fax. (858) 764-2582
iberg@afilaw.com
tkellar@afilaw.com

[Additional counsel appear on signature page]

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN MATEO

CIV536313

HOWARD KLEIMAN, Individually and on
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

SIENTRA, INC., HANI ZEINI, MATTHEW
PIGEON, NICHOLAS SIMON, TIMOTHY
HAINES, R. SCOTT GREER, KEVIN
O'BOYLE, JEFFREY NUGENT, PIPER
JAFFRAY & CO., STIFEL, NICOLAUS &
CO., INC., LEERINK PARTNERS LLC,
WILLIAM BLAIR & CO., LLC and DOES 1
through 25, inclusive

Defendants.

Case No.

By Fax

CLASS ACTION COMPLAINT FOR
VIOLATION OF §§ 11, 12(a)(2) and 15
OF THE SECURITIES ACT OF 1933

DEMAND FOR JURY TRIAL

1 Plaintiff Howard Kleiman ("Plaintiff"), individually and on behalf of all others similarly
 2 situated, by his undersigned counsel, alleges the following upon personal knowledge as to himself
 3 and his own acts and upon information and belief as to all other matters. Plaintiff's information and
 4 belief as to matters other than himself and his own acts are based on the investigation of Plaintiff's
 5 counsel, which included a review of United States Securities and Exchange Commission ("SEC")
 6 filings by or concerning Sientra, Inc. ("Sientra" or the "Company") as well as securities analysts'
 7 reports and advisories about the Company, press releases and other public statements issued by the
 8 Company, and media reports about the Company. Plaintiff believes that substantial additional
 9 evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for
 10 discovery

11 NATURE OF THE ACTION

12 1 This is a securities class action on behalf of all persons who purchased or otherwise
 13 acquired the common stock of Sientra that was issued pursuant to and/or was traceable to the
 14 Registration Statement and Prospectus (the "Offering Documents") in its September 17, 2015
 15 Secondary Public Offering (the "SPO"), and who were damaged thereby. Plaintiff seeks to pursue
 16 remedies under the Securities Act of 1933 (the "Securities Act")

17 2 Sientra is a medical aesthetics company founded in 2003 and was formerly known as
 18 Juliet Medical, Inc. The Company develops and sells medical aesthetics products to plastic
 19 surgeons, including silicone gel breast implants for use in breast augmentation and breast
 20 reconstruction procedures, breast tissue expanders, and implants for contouring purposes to various
 21 parts of the body. It is headquartered in Santa Monica, California and its shares trade on the
 22 NASDAQ under the ticker symbol "SIEN."

23 3. The exclusive manufacturer of Sientra's products is Silimed. Silimed is
 24 headquartered in Brazil and is the largest manufacturer of silicone implants in South America.
 25 Sientra purchased Silimed's North American subsidiary in 2007.

26 4. The Offering Documents emphasized Sientra's unique role as one of the few
 27 companies in the United States that had approval to manufacture and distribute breast implants.
 28 Citing clinical trials, the Offering Documents also touted the safety and quality of Sientra's products

1 as comparable to or better than that of its two competitors in the United States

2 5. On September 24, 2015, it was announced that the United Kingdom's Medicines and
3 Healthcare products Regulatory Agency ("MHRA") had suspended sales of Silimed products after
4 an audit of Silimed's manufacturing processes revealed contamination in Silimed's Rio de Janeiro
5 manufacturing plant.

6 6. On October 5, 2015, Sientra issued a press release announcing that on October 2,
7 2015, the Company had learned that Brazilian regulatory agencies were continuing to review
8 compliance related to Good Manufacturing Practices ("GMP") at Silimed's manufacturing facility
9 and had temporarily suspended manufacturing of all medical devices made by Silimed. In addition,
10 the Brazilian Health Surveillance Agency ("ANVISA") also suspended the use of all implantable
11 products manufactured by Silimed in Brazil

12 7. On this news, Sientra shares dropped precipitously that day on extremely high trading
13 volume, falling by \$2.19 per share to close at \$8.18 per share, a 22% decline. The \$8.18 share price
14 also represented a decline of nearly 63% in the price of Sientra stock from the SPO price of \$22 per
15 share.

16 8. The true facts, which were known by the Defendants but were not disclosed to the
17 investing public in the Offering Documents, were as follows.

18 (a) The Company's Silimed manufacturing plant was not complying with GMP
19 such that silicate and cotton fibers were contaminating the finished product.

20 (b) The plant's failure to follow GMP indicated that Sientra's manufacturer was
21 not competent to assure the production of safe products

22 (c) Sientra lacked a reasonable basis for its statements about the success of its
23 clinical trial outcomes and its manufacturing processes.

24 JURISDICTION AND VENUE

25 9. The claims asserted herein arise under and pursuant to Sections 11, 12(a)(2) and 15 of
26 the Securities Act, 15 U.S.C. §§ 77k, 77l(a)(2) and 77o. This Court has jurisdiction of this action
27 pursuant to Section 22 of the Securities Act, 15 U.S.C. § 77v, and 28 U.S.C. § 1331. Section 22(a) of
28 the Securities Act explicitly states that "[e]xcept as provided in section 16(c), no case arising under

1 this title and brought in any State court of competent jurisdiction shall be removed to any court in the
 2 United States.” Section 16(c) refers to “covered class actions,” which are defined as lawsuits
 3 brought as class actions or brought on behalf of more than 50 persons asserting claims under state or
 4 common law. This is an action asserting federal law claims. Thus, it does not fall within the
 5 definition of “covered class action” under § 16(b)-(c) and therefore is not removable to federal court.
 6 *See Luther v Countrywide Fin Corp*, 195 Cal. App. 4th 789, 792 (2011) (“the federal Securities Act
 7 of 1933, as amended by the Securities Litigation Uniform Standards Act, provides for concurrent
 8 jurisdiction for cases asserting claims under the 1933 Act”); *Luther v Countrywide Home Loans*
 9 *Servicing LP*, 533 F.3d 1031, 1032 (9th Cir. 2008) (“Section 22(a) of the Securities Act of 1933
 10 creates concurrent jurisdiction in state and federal courts over claims arising under the [1933] Act. It
 11 also specifically provides that such claims brought in state court are not subject to removal to federal
 12 court.”)

13 10. This Court has jurisdiction over Sientra because Sientra is a citizen of California as it
 14 has its principal place of business at 420 S. Fairview Avenue, Suite 200, Santa Barbara, California
 15 93117 and certain of the Individual Defendants (as defined below) work and/or reside in California.

16 11. Venue is proper in this Court because the conduct at issue took place and had an
 17 effect in this County and certain of the Individual Defendants work and/or reside in this County.

18 PARTIES

19 12. Plaintiff Howard Kleiman acquired the common stock of Sientra pursuant to or
 20 traceable to the SPO and has been damaged thereby.

21 13. Defendant Sientra is a medical aesthetics company. It is incorporated in Delaware
 22 and has its principal executive offices in Santa Barbara, California.

23 14. Defendant Hani Zeini (“Zeini”) is, and was at the time of the SPO, Chief Executive
 24 Officer (“CEO”), and a director of Sientra.

25 15. Defendant Matthew Pigeon (“Pigeon”) is, and was at the time of the SPO, Chief
 26 Financial Officer (“CFO”) of Sientra.

27 16. Defendant Nicholas Simon (“Simon”) is, and was at the time of the SPO, Chairman
 28 of the Board of Sientra. Simon resides in this County at 50 Clark Drive, San Mateo, California.

1 94401.

2 17 Defendant Timothy Haines ("Haines") is, and was at the time of the Secondary
3 Offering, a director of Sientra.

4 18 Defendant R. Scott Greer ("Greer") is, and was at the time of the Secondary Offering,
5 a director of Sientra.

6 19. Defendant Kevin O'Boyle ("O'Boyle") is, and was at the time of the SPO, a director
7 of Sientra

8 20 Defendant Jeffrey Nugent ("Nugent") is, and was at the time of the SPO, a director of
9 Sientra

10 21. The defendants named in ¶¶14-20 are referred to herein as the "Individual
11 Defendants." The Individual Defendants each signed the Registration Statement issued in
12 connection with the SPO (the "Registration Statement"). Further, Zeini and Pigeon are executives of
13 Sientra and participated in the roadshow to sell the SPO Sientra and the Individual Defendants who
14 signed the Registration Statements are strictly liable for the dales and misleading statements
15 incorporated into the Registration Statement.

16 22 Defendants Piper Jaffray & Co, Stifel, Nicolaus & Co., Inc Leerink Partners LLC,
17 and William Blair & Company LLC are each financial services firms that acted as underwriters of
18 Sientra's SPO, helping to draft and disseminate the Offering Documents and conduct the SPO
19 These defendants are referred to herein collectively as the "Underwriter Defendants " Sientra, the
20 Individual Defendants, and the Underwriter Defendants may also be referred to herein collectively as
21 the "Defendants."

22 23. Pursuant to the Securities Act, the Underwriter Defendants are liable for the false and
23 misleading statements in the Offering Documents as follows:

24 (a) The Underwriter Defendants are investment banking houses that specialize,
25 *inter alia*, in underwriting public offerings of securities. They served as the underwriters of the SPO
26 and shared more than \$4 million in fees collectively The Underwriter Defendants determined that
27 in return for their share of the SPO proceeds, they were willing to merchandize Sientra stock in the
28 SPO. The Underwriter Defendants arranged a multi-city roadshow prior to the SPO during which

1 they and representatives from Sientra met with potential investors and presented highly favorable
2 information about the Company, its operations and its financial prospects.

3 (b) The Underwriter Defendants also demanded and obtained an agreement from
4 Sientra that it would indemnify and hold the Underwriter Defendants harmless from any liability
5 under the federal securities laws. They also made certain that Sientra had purchased millions of
6 dollars in directors' and officers' liability insurance.

7 (c) Representatives of the Underwriter Defendants assisted Sientra and the
8 Individual Defendants in planning the SPO and purportedly conducted an adequate and reasonable
9 investigation into the business and operations of Sientra, an undertaking known as "due diligence."
10 The due diligence investigation was required of the Underwriter Defendants in order to engage in the
11 Secondary Offering. During the course of their due diligence, the Underwriter Defendants had
12 continual access to confidential corporate information concerning Sientra's operations and financial
13 prospects.

14 (d) In addition to availing themselves of virtually unbridled access to internal
15 corporate documents, agents of the Underwriter Defendants met with Sientra's lawyers, management
16 and top executives and engaged in "drafting sessions" between at least July 2015 and September
17 2015. During these sessions, understandings were reached as to (i) the strategy to best accomplish
18 the SPO, (ii) the terms of the SPO, including the price at which Sientra stock would be sold, (iii) the
19 language to be used in the Offering Documents, (iv) what disclosures about Sientra would be made
20 in the Offering Documents; and (v) what responses would be made to the SEC in connection with its
21 review of the Offering Documents. As a result of those constant contacts and communications
22 between the Underwriter Defendants' representatives and Sientra's management and top executives,
23 the Underwriter Defendants knew, or should have known, of Sientra's existing problems as detailed
24 herein.

25 (e) The Underwriter Defendants caused the Offering Documents to be filed with
26 the SEC and declared effective in connection with offers and sales of Sientra stock, including to
27 Plaintiff and the Class.

28 24 The true names and capacities of the defendants sued herein under California Code of

1 Civil Procedure § 474 as Does 1 through 25, inclusive, are presently not known to Plaintiff, who
 2 therefore sues these defendants by such fictitious names. Plaintiffs will seek to amend this
 3 complaint and include these Doe defendants' true names and capacities when they are ascertained.
 4 Each of the fictitiously named defendants is responsible in some manner for the conduct alleged
 5 herein and for the injuries suffered by the Class

6 BACKGROUND

7 25 As explained above, Sientra is a medical aesthetics company that designs and sells
 8 implants and related products for use in cosmetic and reconstructive surgeries. Its primary products
 9 are silicone gel breast implants for use in breast augmentation and breast reconstruction procedures,
 10 which it offers in over 150 varieties of shapes, sizes and textures. It also offers a line of breast tissue
 11 expanders, most of which are marketed as ACX, and a range of body contouring and other products
 12 including silicone elastomer oval carving blocks, scar management specialty products, temporary,
 13 single-use breast sizers, and non-breast tissue expanders. The Company sells its products to board-
 14 certified plastic surgeons.

15 26 The exclusive manufacturer of Sientra's products is Silimed. Headquartered in
 16 Brazil, Silimed is the largest manufacturer of silicone implants in South America. According to the
 17 Offering Documents, prior to the U.S. Food and Drug Administration's ("FDA") approval of
 18 Sientra's breast implants in 2012, only two companies manufactured and distributed breast implants
 19 in the United States.

20 27 On or about October 29, 2014, Sientra filed its prospectus for an initial public
 21 offering ("IPO") of its common stock, which forms part of the October 20, 2014 Form S-1 / A
 22 Registration Statement for the IPO, and which became effective on October 28, 2014.

23 28 The IPO was successful for the Company and the underwriters. At least 5,750,000
 24 shares of Sientra common stock were sold to the public at \$15 per share, including 750,000 shares
 25 exercised by the underwriters in an overallotment, raising over \$80 million in net proceeds for the
 26 Company.

27 //

28 //

**DEFENDANTS' FALSE AND DEFECTIVE
OFFERING DOCUMENTS IN THE SPO**

29. On or about September 18, 2015, Sientra filed its Prospectus for the SPO (the "Prospectus") on Form 424(b)(4). The Prospectus constituted part of the September 14, 2015 Form S-1 / A Registration Statement for the SPO, which became effective on September 17, 2015. At least 3,000,000 shares of Sientra common stock were sold to the public at \$22 per share. This number did not include an overallotment of 450,000 shares granted to the underwriters.

30. The Offering Documents for the SPO represented the following:

Many of our breast implants incorporate one or more differentiated technologies, including a proprietary high-strength, cohesive silicone gel and proprietary texturing branded TRUE Texture. Our breast implants offer a desired balance between strength, shape retention and softness due to the high-strength, cohesive silicone gel used in our manufacturing process. TRUE Texture provides texturing on the implant shell that is designed to reduce the incidence of malposition, rotation and capsular contracture.

Strong clinical trial outcomes Our clinical trial results demonstrate the safety and effectiveness of our breast implants. Our breast implants were approved by the FDA based on data we collected from our ongoing, long-term clinical trial of our breast implants in 1,788 women across 36 investigational sites in the United States. The clinical data we collected over an eight-year follow-up period demonstrated rupture rates, capsular contracture rates and reoperation rates that were comparable to or better than those of our competitors, based on our competitors' published eight-year data.

Innovative services that deliver an improved customer experience Our customer service offerings are intended to accommodate and anticipate the needs of Plastic Surgeons so that they can focus on providing better services to their patients. We provide a ten-year limited warranty that is the best-in-the-industry based on providing patients with the largest cash reimbursement for certain out-of-pocket costs related to revision surgeries in a covered event, a lifetime no-charge implant replacement program for covered ruptures, and our industry-first C3 Program through which we offer no-charge replacement implants to breast augmentation patients who experience capsular contracture within the first five years after implantation with our smooth or textured breast implants. We also offer specialized educational initiatives and a streamlined ordering, shipping and billing process.

31. The Offering Documents included a disclosure that Sientra relies on a foreign sole-source manufacturer, but did not disclose manufacturing problems at that manufacturer leading to contamination.

32. The SPO was successful for the Company and the underwriters, raising approximately \$66 million in gross proceeds for the Company.

33. By September 23, 2015, Sientra's stock continued to trade at high levels, closing that

1 day at \$20.58 per share

2 34. On September 23, 2015, the MHRA issued a press release announcing suspension of
3 sales of all Silimed silicone implants following the discovery of contamination at Silimed's Rio de
4 Janeiro manufacturing plant. The press release stated in part:

5 The Medicines and Healthcare products Regulatory Agency (MHRA) jointly with
6 European healthcare product regulators of member states has been informed of the
7 suspension of the CE certificate for all medical devices made by the Brazilian
8 manufacturer Silimed. The German notified body has recently carried out an inspection
9 of the manufacturing plant in Brazil and established that the surfaces of some devices
10 were contaminated with particles. The devices covered by the suspended CE certificate
11 are implants for.

- 12 • silicone implants for plastic surgery: breast implants, pectoral implants, gluteal implants,
13 calf implants, implants for hand surgery, tissue expanders, facial implants, nostril
14 retainers, suspension sheets for breast surgery
- 15 • bariatric surgery gastric bands and balloons
- 16 • implants for urology: testicular implants, penile implants, vesical conformers, periurethral
17 constrictors, tubes for hypospadias, vaginal stents
- 18 • silicone implants for general surgery blocks and sheets
- 19 • silicone invasive device sizers for silicone implants

20 MHRA is investigating in collaboration with other European regulators and recommends
21 that none of these devices should be implanted until further advice is issued.

22 We emphasize that for the moment there has been no indication that these issues would
23 pose a threat to the implanted person's safety. EU health regulators have initiated testing
24 of samples of products to establish if there are any health risks

25 In general, a medical device cannot be marketed in Europe without carrying a CE mark of
26 conformity. A CE mark is applied by the manufacturer and means that the device meets
27 the relevant regulatory requirements and, when used as intended, works properly and is
28 acceptably safe. CE marking for a device is a claim of compliance with the essential
requirements of European Directives. We continually monitor the safety of all medical
devices.

35. Subsequently, on September 24, 2014, Sientra filed with the SEC on Form 8-K a
letter addressed to plastic surgeons disclosing that the MHRA had suspended distribution of all
medical devices made by Silimed, the Company's contract manufacturer, which stated in part.

Dear Valued Plastic Surgeon,

I wanted to comment on some industry news that we became aware of yesterday.
The Medicines and Healthcare products Regulatory Agency (MHRA), an executive
agency of the United Kingdom Department of Health, announced the suspension of
Silimed's CE certificate for all medical devices made by Silimed. Notably, the MHRA
stated in its announcement that *"there has been no indication at this time that these
issues would pose a threat to patient safety."*

1 As you may know, Silimed is one of our contract manufacturers. Please note that
 2 the MHRA announcement has no applicability to Sientra's products as it is applicable
 3 only to the distribution of Silimed's CE-marked implants in Europe. Our products are
 4 FDA-regulated and PMA-approved. Sientra's breast implants and our other products
 continue to be marketed and available in the United States and there has been no change
 to the regulatory status of Sientra's FDA-approved breast implants.

5 We are confident in the safety of our products, and you can reassure your patients
 6 as needed by telling them that there has been no indication that these issues would pose a
 7 threat to their safety. In light of this news, we will of course conduct our own review to
 ensure continued compliance with our own high internal standards.

8 A few other important items to note:

- 9 • Silimed has assured us that they are working with the MHRA in the European Union to
 resolve the issues promptly, and
- 10 • Silimed has been audited multiple times by the FDA to ensure compliance with the
 11 Quality Systems Regulation, and has, to date, never received a 483 observation. Silimed
 12 has also been audited by ANVISA and other Brazilian regulatory authorities.

13 Our recent publication of our clinical data at 8-years of follow-up supports our
 continued record of safety and efficacy.

14 Given our unwavering commitment to you and your patients, I will continue to
 15 keep you fully informed.

16 (Emphasis in original.)

17 36. Then, on October 5, 2015, after Brazilian regulatory agencies suspended all of
 18 Silimed's manufacturing of medical devices, Sientra issued a press release entitled "Sientra Issues
 19 Statement Regarding Recent ANVISA Announcement," which stated in part.

20 Sientra, Inc., a medical aesthetics company, today issued the following statement
 21 regarding a recent announcement by the Brazilian regulatory agency ANVISA and the
 Department of the Secretary of State of the State of Rio de Janeiro (SES -RJ) related to
 products made by Silimed, one of Sientra's contract manufacturers.

22 On October 2nd, Sientra learned that Brazilian regulatory agencies announced
 23 that, as they continue to review the technical compliance related to Good Manufacturing
 Practices (GMP) of Silimed's manufacturing facility, they have temporarily suspended
 24 the manufacturing of all medical devices made by Silimed, including products
 25 manufactured for Sientra. ANVISA has also suspended, as a precautionary measure, the
 use in Brazil of all implantable products manufactured by Silimed.

26 In its announcement, ANVISA noted that no risks to patient health have been
 27 identified in connection with implanting Silimed products, and, accordingly, there is no
 need to adopt any procedure or action for those patients who have received them.
 28 Furthermore, ANVISA also indicated that, based on their contact to date with foreign

1 regulatory authorities, there have been no reports of adverse events related to the use of
2 Silimed products

3 Sientra continues to be in active discussions with the United States Food and
4 Drug Administration (FDA) regarding this matter. Importantly, as these discussions
5 continue, the Company continues to offer and make available its products to surgeons and
6 patients in the United States. Sientra believes it currently has ample inventory to address
7 current and near-term future demand

8 We remain committed to patient safety and will keep our doctors and other
9 stakeholders apprised of any new developments.

10 37 On this news, Sientra shares dropped quickly, falling \$ 2.19 per share to close at
11 \$8.18 per share on October 5, 2015, a decline of nearly 22%, on extremely high volume. This
12 represented a decline of nearly 63% in the price of Sientra stock from the SPO price of \$22 per
13 share

14 38. The true facts, which were known by Defendants but concealed from the investing
15 public in the Offering Documents, were as follows:

16 (a) The Company's Silimed manufacturing plant was not complying with GMP
17 such that silicate and cotton fibers were contaminating the finished product.

18 (b) The plant's failure to follow GMP indicated that Sientra's manufacturer was
19 not competent to assure the production of safe products.

20 (c) Sientra lacked a reasonable basis for its statements about the success of its
21 clinical trial outcomes and its manufacturing processes

22 NO SAFE HARBOR

23 39 Defendants are liable for any false and misleading forward-looking statements issued
24 in connection with the September 17, 2015 SPO. The Safe Harbor provision of §27A of the
25 Securities Act, 15 U.S.C. § 77z-2(b)(2)(D), specifically excludes those statements "made in
26 connection with an initial public offering," which includes all of the false and misleading statements
27 made in connection with the SPO.

28 CLASS ACTION ALLEGATIONS

39 40. Plaintiff brings this action as a class action on behalf of all those who purchased
40 shares of common stock of Sientra pursuant to and/or traceable to the SPO (the "Class"). Excluded

1 from the Class are Defendants, the officers, directors and affiliates of Defendants, and at all relevant
2 times, members of their immediate families and their legal representatives, heirs, successors or
3 assigns, and any entity in which Defendants have or had a controlling interest.

4 41 The members of the Class are so numerous that joinder of all members is
5 impracticable. The precise number of Class members is unknown to Plaintiff at this time and can
6 only be ascertained through appropriate discovery. In addition, the names and addresses of the Class
7 members can be ascertained from the books and records of Sientra or its transfer agent. Notice can
8 be provided to Class members by a combination of published notice and first-class mail, using
9 techniques and a form of notice similar to those customarily used in class actions arising under the
10 federal securities laws.

11 42 Plaintiff's claims are typical of the claims of the other members of the Class because
12 Plaintiff and all the Class members' damages arise from and were caused by the same false and
13 misleading representations and omissions made by or chargeable to Defendants. Plaintiff does not
14 have any interests antagonistic to, or in conflict with, the Class.

15 43 A class action is superior to other available methods for the fair and efficient
16 adjudication of this controversy. Since the damages suffered by individual Class members may be
17 relatively small, the expense and burden of individual litigation make it virtually impossible for the
18 Class members to seek redress for the wrongful conduct alleged. Plaintiff knows of no difficulty that
19 will be encountered in the management of this litigation that would preclude its maintenance as a
20 class action.

21 44 Plaintiff will fairly and adequately protect the interests of the members of the Class
22 and has retained counsel competent and experienced in class action and securities litigation.

23 45 Common questions of law and fact exist as to all members of the Class and
24 predominate over any questions solely affecting individual members of the Class. Among the
25 questions of law and fact common to the Class are:

- 26 (a) whether the Securities Act was violated by Defendants' acts as alleged herein;
27 (b) whether the Registration Statement issued by Defendants to the investing
28 public in connection with the SPO omitted and/or misrepresented material facts about Sientra and its

1 business, and

2 (c) the extent of injuries sustained by members of the Class and the appropriate
3 measure of damages.

4 **FIRST CAUSE OF ACTION**

5 **Violations of Section 11 of the Securities Act**
6 **Against All Defendants**

7 46 Plaintiff repeats and realleges each and every allegation contained above

8 47 This cause of action is brought pursuant to Section 11 of the Securities Act, 15 U.S.C.
9 §77k, on behalf of the Class, against all Defendants.

10 48 Plaintiff acquired Sientra common stock pursuant to and/or traceable to the
11 Registration Statement.

12 49. The Registration Statement for the SPO was inaccurate and misleading, contained
13 untrue statements of material facts, omitted to state other facts necessary to make the statements
14 made not misleading, and omitted to state material facts required to be stated therein.

15 50. Sientra is the registrant for the SPO. As issuer of the common stock, Sientra is
16 strictly liable to Plaintiff and the Class for the misstatements and omissions

17 51 The Individual Defendants each signed the Registration Statement. As such, each is
18 strictly liable for the materially inaccurate statements contained in the Registration Statement and the
19 failure of the Registration Statement to be complete and accurate.

20 52. The Underwriter Defendants each served as underwriters in connection with the SPO
21 Thus, each is strictly liable for the materially inaccurate statements contained in the Registration
22 Statement and the failure of the Registration Statement to be complete and accurate.

23 53 Neither the Individual Defendants nor the Underwriter Defendants made a reasonable
24 investigation or possessed reasonable grounds for the belief that the statements contained in the
25 Registration Statement were true and without omissions of any material facts necessary to make such
26 statements not misleading.

27 54 By reasons of the conduct herein alleged, each Defendant violated, and/or controlled
28 a person who violated, Section 11 of the Securities Act.

4 56. At the time of their purchases of Sientra common stock, Plaintiff and other members
5 of the Class were without knowledge of the facts concerning the wrongful conduct alleged herein
6 and could not have reasonably discovered those facts prior to September 23, 2015. Less than one
7 year has elapsed from the time that Plaintiff discovered the facts upon which this Complaint is based
8 to the time that Plaintiff filed this Complaint. Less than three years have elapsed between the time
9 that the securities upon which this Cause of Action is brought were offered to the public and the time
10 Plaintiff filed this Complaint

SECOND CAUSE OF ACTION

Violations of Section 12(a)(2) of the Securities Act Against All Defendants

14 57 Plaintiff repeats and realleges each and every allegation set forth above.

15 58. This Cause of Action is brought pursuant to Section 12(a)(2) of the Securities Act, 15
16 U.S.C. §77l(a)(2), on behalf of the Class.

17 59 Defendants were sellers and offerors and/or solicitors of purchasers of the common
18 stock offered pursuant to the Prospectus.

19 60 As set forth above, the Prospectus contained untrue statements of material fact,
20 omitted to state other facts necessary to make the statements made therein not misleading, and
21 omitted to state material facts required to be stated therein. Defendants' actions of solicitation
22 included preparing the inaccurate and misleading Prospectus and participating in efforts to market
23 the SPO to investors.

61 Defendants owed to the purchasers of Sientra common stock, including Plaintiff and the other Class members, the duty to make a reasonable and diligent investigation of the statements contained in the Prospectus to ensure that such statements were accurate and that they did not contain any misstatement or omission of material fact. Defendants, in the exercise of reasonable care, should have known that the Prospectus contained misstatements and omissions of material fact.

62. Plaintiff and the other members of the Class purchased or otherwise acquired Sientra common stock pursuant and/or traceable to the Prospectus, and neither Plaintiff nor the other Class members knew, or in the exercise of reasonable diligence could have known, of the untruths, inaccuracies and omissions contained in the Prospectus

63 By reason of the conduct alleged herein, Defendants violated Section 12(a)(2) of the Securities Act. As a direct and proximate result of such violations, Plaintiff and the other members of the Class who purchased Sientra common stock pursuant to the Prospectus sustained substantial damages in connection with their purchases of the stock. Accordingly, Plaintiff and the other members of the Class who hold the common stock issued pursuant to the Prospectus have the right to rescind and recover the consideration paid for their shares, and hereby tender their common stock to the Defendants sued herein. Class members who have sold their common stock seek damages to the extent permitted by law

64 Less than one year has elapsed from the time that Plaintiff discovered the facts upon which this Complaint is based to the time that Plaintiff filed this Complaint. Less than three years elapsed between the time that the securities upon which this Cause of Action is brought were offered to the public and the time Plaintiff filed this Complaint.

THIRD CAUSE OF ACTION

Violations of Section 15 of the Securities Act Against Sientra and the Individual Defendants

65. Plaintiff repeats and realleges each and every allegation contained above

66 This Count is brought pursuant to Section 15 of the Securities Act against Sientra and the Individual Defendants.

67. Each of the Individual Defendants was a control person of Sientra by virtue of his position as a director and/or senior officer of Sientra. As a result, these Defendants had the power to influence and did influence Sientra to engage in the conduct complained of herein. In addition, the Company controlled all of Sientra's employees

68 Sientra and each of the Individual Defendants were culpable participants in the violation of Section 11 of the Securities Act alleged in the First Cause of Action above, based on

1 their having signed or authorized the signing of the Registration Statement and/or having otherwise
2 participated in the process which allowed the SPO to be successfully completed. By reason of such
3 wrongful conduct, Plaintiff and the Class suffered damages for which these Defendants are liable.

4 **PRAYER FOR RELIEF**

5 **WHEREFORE**, Plaintiff, on behalf of himself and the Class, prays for judgment as follows:

6 A. Declaring this action to be a proper class action and certifying Plaintiff as Class
7 representative;

8 B. Awarding Plaintiff and other members of the Class compensatory damages;

9 C. Awarding Plaintiff and other members of the Class rescission on their §12(a)(2)
10 claims;

11 D. Awarding Plaintiff and other members of the Class interest and their costs and
12 expenses, including reasonable attorneys' fees, accountants' fees and experts' fees and other costs
13 and disbursements; and

14 E. Awarding Plaintiff and other members of the Class such other and further relief as
15 may be just and proper under the circumstances.

16 **JURY TRIAL DEMANDED**

17 Plaintiff hereby demands a trial by jury.

18 DATED: November 19, 2015

ABRAHAM, FRUCHTER & TWERSKY LLP

19
20
21 
IAN D. BERG
TAKEO A. KELLAR
11622 El Camino Real, Suite 100
San Diego, CA 92130
Tel: (858) 764-2580
Fax: (858) 764-2582
iberg@aflaw.com
tkellar@aflaw.com

26 -and-

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JACK G FRUCHTER (*to be admitted pro hac vice*)
CASSANDRA L PORSCH (*to be admitted pro hac vice*)
One Penn Plaza, Suite 2805
New York, NY 10119
Tel: (212) 279-5050
Fax: (212) 279-3655
jfruchter@aflaw.com
cporsch@aflaw.com

Attorneys for Plaintiff

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address) Ian D. Berg State Bar No 263586 Abraham, Fruchter & Twersky, LLP 11622 El Camino Real, Suite 100, San Diego, CA 92130 TELEPHONE NO (858) 764-2580 FAX NO. (858) 764-2582 ATTORNEY FOR (Name) Howard Kleiman		<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> FOR COURT USE ONLY SAN MATEO COUNTY NOV 19 2015 Clerk of the Superior Court By <u> </u> DEPUTY CLERK </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo STREET ADDRESS 400 County Center #4 MAILING ADDRESS 400 County Center #4 CITY AND ZIP CODE Redwood City, 94063 BRANCH NAME: Southern Branch-Hall of Justice		
CASE NAME By Fax		
<div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) </div> <div style="width: 40%;"> Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal Rules of Court, rule 3.402) </div> <div style="width: 20%; text-align: center;"> CASE NUMBER CIV 536313 JUDGE DEPT </div> </div>		

Items 1-6 below must be completed (see instructions on page 2).

- 1 Check one box below for the case type that best describes this case
- | | | |
|--|---|--|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
<input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35)
Employment
<input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | Contract
<input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3 740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37)
Real Property
<input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation
(Cal. Rules of Court, rules 3.400-3.403)
<input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input checked="" type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42)
Miscellaneous Civil Petition
<input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|--|---|--|
- 2 This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
- 3 Remedies sought (check all that apply). a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☐ punitive
- 4 Number of causes of action (specify). claims for violation of Sections 11, 12(a)(2) and 15 of the Securities Act of
- 5 This case ☒ is ☐ is not a class action suit
- 6 If there are any known related cases, file and serve a notice of related case. (You may use form CM-015)

Date: November 19, 2015

Ian D. Berg

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

Sientra, Inc
(Additional Parties Attachment form is attached)

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

HOWARD KLEIMAN, Individually and on Behalf of All Others
similarly situated

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

SAN MATEO COUNTY

NOV 19 2015

Clerk of the Superior Court

By [Signature]
DEPUTY CLERK

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le de un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es)

Southern Branch-Hall of Justice
400 County Center #4, Redwood City, CA 94063

CASE NUMBER
(Número del Caso)
CTV 536313

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is.
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es)
Abraham, Fruchter & Twersky, LLP, Jan D. Berg, 11622 El Camino Real, Suite 100, San Diego, CA 92130

DATE November 19, 2015
(Fecha)

Clerk, by _____, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010))



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant
2. ☐ as the person sued under the fictitious name of (specify)
3. ☐ on behalf of (specify).
under ☐ CCP 416 10 (corporation) ☐ CCP 416 60 (minor)
☐ CCP 416 20 (defunct corporation) ☐ CCP 416 70 (conservatee)
☐ CCP 416 40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify)
4. ☐ by personal delivery on (date)

SUM-200(A)

SHORT TITLE Howard Kleiman v. Sientra, Inc., et. al.,	CASE NUMBER
--	-------------

INSTRUCTIONS FOR USE

- This form may be used as an attachment to any summons if space does not permit the listing of all parties on the summons
- If this attachment is used, insert the following statement in the plaintiff or defendant box on the summons: "Additional Parties Attachment form is attached "

List additional parties (Check only one box Use a separate page for each type of party):

☐ Plaintiff
 ☒ Defendant
 ☐ Cross-Complainant
 ☐ Cross-Defendant

Han Zeini
 Matthew Pigeon
 Nicholas Simon
 Timothy Haines
 R. Scott Greer
 Kevin O' Boyle
 Jeffrey Nugent
 Piper Jaffray & Co.
 Stifel, Nicolaus & Co., Inc.
 Leerink Partners LLC
 William Blair & Co., LLC
 and DOES 1 through 25, inclusive

Page ____ of ____

Page 1 of 1

TO (insert name of party being served): Sientra, Inc., Hani Zeini, Matthew Pigeon, Nicholas Simon, R. Scott Greer, Kevin O'Boyle, and Jeffrey Nugent

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Jan P Berg
(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

Attorney or Party without Attorney (Name/Address) Ian D Berg Abraham, Fruchter & Twersky, LLP 11622 El Camino Real, Suite 100, San Diego, CA 92130 Telephone: (858) 764-2580 State Bar No. 263586 Attorney for: Howard Kleiman	FOR COURT USE ONLY FILED SAN MATEO COUNTY NOV 19 2015 Clerk of the Superior Court By <u>[Signature]</u> DEPUTY CLERK
SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN MATEO 400 COUNTY CENTER REDWOOD CITY, CA 94063	
Plaintiff Howard Kleiman	
Defendant Sientra, Inc., et. al. By Fax	
Certificate Re Complex Case Designation	Case Number CIV 588813

This certificate must be completed and filed with your Civil Case Cover Sheet if you have checked a Complex Case designation or Counter-Designation

1. In the attached Civil Case Cover Sheet, this case is being designated or counter-designated as a complex case [or as not a complex case] because at least one or more of the following boxes has been checked
 - ☒ Box 1 – Case type that is best described as being [or not being] provisionally complex civil litigation (i.e., antitrust or trade regulation claims, construction defect claims involving many parties or structures, securities claims or investment losses involving many parties, environmental or toxic tort claims involving many parties, claims involving mass torts, or insurance coverage claims arising out of any of the foregoing claims).
 - ☒ Box 2 – Complex [or not complex] due to factors requiring exceptional judicial management
 - ☒ Box 5 – Is [or is not] a class action suit.
2. This case is being so designated based upon the following supporting information [including, without limitation, a brief description of the following factors as they pertain to this particular case: (1) management of a large number of separately represented parties; (2) complexity of anticipated factual and/or legal issues; (3) numerous pretrial motions that will be time-consuming to resolve; (4) management of a large number of witnesses or a substantial amount of documentary evidence; (5) coordination with related actions

pending in one or more courts in other counties, states or countries or in a federal court; (6) whether or not certification of a putative class action will in fact be pursued; and (7) substantial post-judgment judicial supervision]:

This is a securities class action case with numerous defendants who may
be separately represented. There may be a substantial amount of documentary
evidence. Class certification will be pursued.

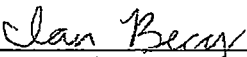
(attach additional pages if necessary)

3. Based on the above-stated supporting information, there is a reasonable basis for the complex case designation or counter-designation [or noncomplex case counter-designation] being made in the attached Civil Case Cover Sheet.

I, the undersigned counsel or self-represented party, hereby certify that the above is true and correct and that I make this certification subject to the applicable provisions of California Code of Civil Procedure, Section 128.7 and/or California Rules of Professional Conduct, Rule 5-200 (B) and San Mateo County Superior Court Local Rules, Local Rule 2.30.

Dated: November 19, 2015

Ian D. Berg
[Type or Print Name]


[Signature of Party or Attorney For Party]

NOTICE OF CASE MANAGEMENT CONFERENCE

Howard Kleiman, et al **FILED** Case No CIV536313
SAN MATEO COUNTY

vs
Sientra, Inc, et al **NOV 19 2015** Date 3-18-16
Clerk of the Superior Court
 By [Signature] Time 9 00 a m
 DEPUTY CLERK
 Dept 21 --on Tuesday & Thursday
 Dept _____ --on Wednesday & Friday

You are hereby given notice of your Case Management Conference. The date, time and department have been written above.

- 1 In accordance with applicable California Rules of the Court and local Rules 2.3(d)1-4 and 2.3(m), you are hereby ordered to
 - a) Serve all named defendants and file proofs of service on those defendants with the court within 60-days of filing the complaint (CRC 201.7)
 - b) Serve a copy of this notice, Case Management Statement and ADR Information Sheet on all named parties in this action
 - c) File and serve a completed Case Management Statement at least 15-days before the Case Management Conference [CRC 212(g)]. Failure to do so may result in monetary sanctions
 - d) Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 212(f) no later than 30-days before the date set for the Case Management Conference
- 2 If you fail to follow the orders above, you are ordered to show cause why you should not be sanctioned. The Order to Show Cause hearing will be at the same time as the Case Management Conference hearing. Sanctions may include monetary, evidentiary or issue sanctions as well as striking pleadings and/or dismissal.
- 3 Continuances of Case Management Conferences are highly disfavored unless good cause is shown.
- 4 Parties may proceed to an appropriate dispute resolution process ("ADR") by filing a Stipulation to ADR and Proposed Order (see attached form). If plaintiff files a Stipulation to ADR and Proposed Order electing to proceed to judicial arbitration, the Case Management Conference will be taken off the court calendar and the case will be referred to the Arbitration Administrator. If plaintiffs and defendants file a completed stipulation to another ADR process (e.g., mediation) 10-days prior to the first scheduled Case Management Conference, the Case Management Conference will be continued for 90-days to allow parties time to complete their ADR session. The court will notify parties of their new Case Management Conference date.
- 5 If you have filed a default or a judgment has been entered, your case is not automatically taken off Case Management Conference Calendar. If "Does", "Roes," etc. are named in your complaint, they must be dismissed in order to close the case. If any party is in bankruptcy, the case is stayed only as to that named party.
- 6 You are further ordered to appear in person* (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.
- 7 The Case Management judge will issue orders at the conclusion of the conference that may include
 - a) Referring parties to voluntary ADR and setting an ADR completion date,
 - b) Dismissing or severing claims or parties,
 - c) Setting a trial date
- 8 The Case Management judge may be the trial judge in this case.

For further information regarding case management policies and procedures, see the court's website at www.sanmateocourt.org

*Telephonic appearances at case management conferences are available by contacting CourtCall, LLC, an independent vendor, at least five business days prior to the scheduled conference (see attached CourtCall information)



**Superior Court of California
County of San Mateo
Civil Department
400 County Center
Redwood City, CA 94063-1655
(650) 261-5100
www.sanmateocourt.org**

HOWARD KLEIMAN Plaintiff(s) vs SIENTRA, INC Defendant(s)	Notice of Complex Case Status Conference Case No CIV 536313 Date 01/19/16 Time 9:00 AM Dept. 11
Title HOWARD KLEIMAN VS SIENTRA, INC, ETAL	

You are hereby given notice of your Complex Case Status Conference. The date, time and department have been written above. At this conference, the Presiding Judge will decide whether this action is a complex case within the meaning of California Rules of Court ("CRC"), Rule 3 400, subdivision (a) and whether it should be assigned to a single judge for all purposes.

1. In accordance with applicable **San Mateo County Local Rule 2.30**, you are hereby ordered to
 - a. **Serve** copies of this notice, your Civil Case Cover Sheet, and your Certificate Re Complex Case Designation on all named parties in this action no later than service of your first appearance pleadings.
 - b. **Give reasonable notice** of the Complex Case Status Conference to all named parties in this action, even if they have not yet made a first appearance or been formally served with the documents listed in subdivision (a). Such notice shall be given in the same manner as required for an ex parte application pursuant to CRC 3 1203.

2. If you fail to follow the orders above, you are ordered to show cause why you should not be sanctioned. The Order To Show Cause hearing will be at the same time as the Complex Case Status Conference. Sanctions may include monetary, evidentiary or issue sanctions as well as striking pleadings and/or dismissal.

3. An action is provisionally a complex case if it involves one or more of the following types of claims: (1) antitrust or trade regulation claims; (2) construction defect claims involving many parties or structures; (3) securities claims or investment losses involving many parties; (4) environmental or toxic tort claims involving many parties; (5) claims involving massive torts; (6) claims involving class actions; or (7) insurance coverage claims arising out of any of the claims listed in subdivisions (1) through (6). The Court shall treat a provisionally complex action as a complex case until the Presiding Judge has the opportunity to decide whether the action meets the definition in CRC 3 400(a).

4. Any party who files either a Civil Case Cover Sheet (pursuant to CRC 3 401) or a counter or joinder Civil Case Cover Sheet (pursuant to CRC 3 402, subdivision (b) or (c)), designating an action as a complex case in Items 1, 2 and/or 5, must also file an accompanying Certificate Re Complex Case Designation in the form prescribed by the Court. The certificate must include supporting information showing a reasonable basis for the complex case designation being sought. Such supporting information may include, without limitation, a brief

description of the following factors as they pertain to the particular action (1) management of a large number of separately represented parties, (2) complexity of anticipated factual and/or legal issues, (3) numerous pretrial motions that will be time-consuming to resolve, (4) management of a large number of witnesses or a substantial amount of documentary evidence, (5) coordination with related actions pending in one or more courts in other counties, states or countries or in a federal court, (6) whether or not certification of a putative class action will in fact be pursued, and (7) substantial post-judgment judicial supervision.

For further information regarding case management policies and procedures, see the court website at www.sanmateocourt.org

* Telephonic appearances at Complex Case Status Conference are available by contacting CourtCall, LLC, an independent vendor, at least 5 business days prior to the scheduled conference

CLERK'S CERTIFICATE OF MAILING

I hereby certify that I am the clerk of this Court, not a party to this cause, that I served a copy of this notice on the below date, by placing a copy thereof in separate sealed envelopes addressed to the address shown by the records of this Court, and by then sealing said envelopes and depositing same, with postage fully pre-paid thereon, in the United States Mail at Redwood City, California

Date 11/19/15


Rodina M Catalano,
Court Executive Officer/Clerk

By MADELINE MASTERSON
Deputy Clerk

Copies mailed to

IAN D BERG
11622 EL CAMINO REAL, STE 100
SAN DIEGO CA 92130

CM-015

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address). Ian D Berg State Bar No. 263586 Abraham, Fruchter & Twersky, LLP 11622 El Camino Real, Suite 100, San Diego, CA 92130 TELEPHONE NO. (858) 764-2580 FAX NO (Optional) (858) 764-2582 E-MAIL ADDRESS (Optional) iberger@afllaw.com ATTORNEY FOR (Name). Howard Kleiman	FOR COURT USE ONLY FILED SAN MATEO COUNTY NOV 19 2015 Clerk of the Superior Court By  DEPUTY CLERK
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo STREET ADDRESS 400 County Center #4 MAILING ADDRESS 400 County Center #4 CITY AND ZIP CODE Redwood City, 94063 BRANCH NAME	
PLAINTIFF/PETITIONER Howard Kleiman DEFENDANT/RESPONDENT Sientra, Inc. et al.,	CASE NUMBER. CIV 536918 JUDICIAL OFFICER
NOTICE OF RELATED CASE	DEPT

By Fax

Identify, in chronological order according to date of filing, all cases related to the case referenced above

- 1 a Title Oklahoma Police Pension Retirement System v. Sientra, Inc. et al.
 b Case number: Civ 536013
 c Court ☒ same as above
 ☐ other state or federal court (name and address)
 d, Department Civil (Pending Complex Case Designation)
 e. Case type. ☐ limited civil ☒ unlimited civil ☐ probate ☐ family law ☐ other (specify)
 f. Filing date October 28, 2015
 g. Has this case been designated or determined as "complex?" ☒ Yes ☐ No
 h. Relationship of this case to the case referenced above (check all that apply).
 ☒ involves the same parties and is based on the same or similar claims.
 ☒ arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
 ☐ involves claims against, title to, possession of, or damages to the same property.
 ☐ is likely for other reasons to require substantial duplication of judicial resources if heard by different judges.
 ☐ Additional explanation is attached in attachment 1h
 i Status of case
 ☒ pending
 ☐ dismissed ☐ with ☐ without prejudice
 ☐ disposed of by judgment
- 2 a Title Albano v. Sientra, Inc. et al.
 b. Case number Civ. 536138
 c Court ☒ same as above
 ☐ other state or federal court (name and address)
 d. Department Civil (Pending Complex Case Designation)

CM-015

PLAINTIFF/PETITIONER Howard Kleinman	CASE NUMBER
DEFENDANT/RESPONDENT Sientra, Inc. et. al,	

2. (continued)

- e Case type ☐ limited civil ☒ unlimited civil ☐ probate ☐ family law ☐ other (specify):
- f Filing date November 5, 2015
- g Has this case been designated or determined as "complex?" ☒ Yes ☐ No
- h Relationship of this case to the case referenced above (check all that apply).
- ☒ involves the same parties and is based on the same or similar claims.
- ☒ arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
- ☐ involves claims against, title to, possession of, or damages to the same property
- ☐ is likely for other reasons to require substantial duplication of judicial resources if heard by different judges
- ☐ Additional explanation is attached in attachment 2h
- i Status of case
- ☒ pending
- ☐ dismissed ☐ with ☐ without prejudice
- ☐ disposed of by judgment

3

- a Title
- b Case number
- c Court. ☐ same as above
☐ other state or federal court (name and address):
- d. Department.
- e Case type ☐ limited civil ☐ unlimited civil ☐ probate ☐ family law ☐ other (specify).
- f Filing date
- g Has this case been designated or determined as "complex?" ☐ Yes ☐ No
- h Relationship of this case to the case referenced above (check all that apply)
- ☐ involves the same parties and is based on the same or similar claims
- ☐ arises from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact.
- ☐ involves claims against, title to, possession of, or damages to the same property.
- ☐ is likely for other reasons to require substantial duplication of judicial resources if heard by different judges
- ☐ Additional explanation is attached in attachment 3h
- i Status of case.
- ☐ pending
- ☐ dismissed ☐ with ☐ without prejudice
- ☐ disposed of by judgment

4 ☐ Additional related cases are described in Attachment 4. Number of pages attached. _____

Date: November 19, 2015

Ian D. Berg

(TYPE OR PRINT NAME OF PARTY OR ATTORNEY)

▶

Ian Berg

(SIGNATURE OF PARTY OR ATTORNEY)